

APPEAL,CAP,CAT B,CLOSED

**U.S. District Court
District of Columbia (Washington, DC)
CRIMINAL DOCKET FOR CASE #: 1:21-cr-00108-TSC-1**

Case title: USA v. FOY

Magistrate judge case number: 1:21-mj-00136-RMM

Date Filed: 02/10/2021

Assigned to: Judge Tanya S. Chutkan

Defendant (1)

MICHAEL JOSEPH FOY

represented by **Elizabeth Ann Mullin**
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Pending Counts

18 U.S.C. 231(a)(3); CIVIL DISORDER;
Civil Disorder
(1)

Disposition

18:231(a)(3); CIVIL DISORDER; Civil
Disorder
(1s)

18:111(a)(1);
ASSAULTING/RESISTING/IMPEDING
OFFICERS/EMPLOYEES; Assaulting,
Resisting, or Impeding Certain Officers.
(1ss)

18 U.S.C. 1512(c)(2) and 2; TAMPERING
WITH A WITNESS, VICTIM OR
INFORMANT; Obstruction of an Official
Proceeding and Aiding and Abetting
(2)

18:1512(c)(2) and 2; TAMPERING WITH
A WITNESS, VICTIM OR
INFORMANT; Obstruction of an Official
Proceeding and Aiding and Abetting
(2s)

18 U.S.C. 111(a)(1) and (b);
ASSAULTING/RESISTING/IMPEDING
OFFICERS/EMPLOYEES; Assaulting,
Resisting, or Impeding Certain Officers
Using a Dangerous Weapon
(3)

18:111(a)(1) and (b);
ASSAULTING/RESISTING/IMPEDING
OFFICERS/EMPLOYEES; Assaulting,
Resisting, or Impeding Certain Officers
Using a Dangerous Weapon
(3s)

18 U.S.C. 1752(a)(1) and (b)(1)(A);
TEMPORARY RESIDENCE OF THE
PRESIDENT; Entering and Remaining in a
Restricted Building or Grounds with a
Deadly or Dangerous Weapon
(4)

18:1752(a)(1) and (b)(1)(A);
TEMPORARY RESIDENCE OF THE
PRESIDENT; Entering and Remaining in a
Restricted Building or Grounds with a
Deadly or Dangerous Weapon
(4s)

18 U.S.C. 1752(a)(1); TEMPORARY
RESIDENCE OF THE PRESIDENT;
Entering and Remaining in a Restricted
Building or Grounds

Forty (40) Months Incarceration Followed
By Supervised Release Period Of
Twenty-Four (24) Months And A Special
Assessment Of \$100.00 (concurrent with
term of incarceration and supervised release
imposed as to Count 2s)

Forty (40) Months Incarceration Followed
By Supervised Release Period Of
Twenty-Four (24) Months And A Special
Assessment Of \$100.00 (concurrent with
term of incarceration and supervised release
imposed as to Count 1ss)

(5)

18:1752(a)(1); TEMPORARY
RESIDENCE OF THE PRESIDENT;
Entering and Remaining in a Restricted
Building or Grounds

(5s)

18 U.S.C. 1752(a)(2); TEMPORARY
RESIDENCE OF THE PRESIDENT;
Disorderly and Disruptive Conduct in a
Restricted Building or Grounds

(6)

18:1752(a)(2); TEMPORARY
RESIDENCE OF THE PRESIDENT;
Disorderly and Disruptive Conduct in a
Restricted Building or Grounds

(6s)

18 U.S.C. 1752(a)(4); TEMPORARY
RESIDENCE OF THE PRESIDENT;
Engaging in Physical Violence in a
Restricted Building or Grounds

(7)

18:1752(a)(4); TEMPORARY
RESIDENCE OF THE PRESIDENT;
Engaging in Physical Violence in a
Restricted Building or Grounds

(7s)

40 U.S.C. 5104(e)(2)(F); FEDERAL
STATUTES, OTHER; Act of Physical
Violence in a Capitol Building

(8)

40:5104(e)(2)(F); VIOLENT ENTRY
AND DISORDERLY CONDUCT ON
CAPITOL GROUNDS; Act of Physical
Violence in the Capitol Grounds or
Buildings

(8s)

Highest Offense Level (Opening)

Felony

Terminated Counts

None

Disposition

Highest Offense Level (Terminated)

None

Complaints

COMPLAINT in Violation of
18:1752(a)(1), (2), 18:231(a)(3),
18:111(a)(1) and (b), 18:2 and
18:1512(c)(2)

Disposition

Plaintiff

USA

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Date Filed	#	Docket Text
01/20/2021	<u>1</u>	SEALED COMPLAINT as to MICHAEL JOSEPH FOY (1). (Attachments: # <u>1</u> Statement of Facts) (zstd) [1:21-mj-00136-RMM] (Entered: 01/21/2021)
01/20/2021	<u>3</u>	MOTION to Seal Case by USA as to MICHAEL JOSEPH FOY. (Attachments: # <u>1</u> Text of Proposed Order)(zstd) [1:21-mj-00136-RMM] (Entered: 01/21/2021)

01/20/2021	<u>4</u>	ORDER granting <u>3</u> Motion to Seal Case as to MICHAEL JOSEPH FOY (1). Signed by Magistrate Judge Robin M. Meriweather on 1/20/2021. (zstd) [1:21-mj-00136-RMM] (Entered: 01/21/2021)
01/21/2021		Case unsealed as to MICHAEL JOSEPH FOY (bb) [1:21-mj-00136-RMM] (Entered: 01/21/2021)
01/21/2021		Arrest of MICHAEL JOSEPH FOY in US District Court for Eastern District of Michigan. (zltp) [1:21-mj-00136-RMM] (Entered: 02/12/2021)
01/27/2021	<u>5</u>	Rule 5(c)(3) Documents Received as to MICHAEL JOSEPH FOY from US District Court for Eastern District of Michigan Case Number 2:21-mj-30039 (zltp) [1:21-mj-00136-RMM] (Entered: 02/12/2021)
02/10/2021	<u>6</u>	INDICTMENT as to MICHAEL JOSEPH FOY (1) count(s) 1, 2, 3, 4, 5, 6, 7, 8. (zltp) (Entered: 02/12/2021)
02/22/2021	<u>9</u>	NOTICE OF ATTORNEY APPEARANCE: Eugene Ohm appearing for MICHAEL JOSEPH FOY (Ohm, Eugene) (Entered: 02/22/2021)
03/10/2021	<u>10</u>	Emergency MOTION to Bond <i>Review</i> by MICHAEL JOSEPH FOY. (Attachments: # <u>1</u> Exhibit, # <u>2</u> Exhibit, # <u>3</u> Exhibit, # <u>4</u> Text of Proposed Order)(Ohm, Eugene) Modified event on 3/11/2021 (znmw). (Entered: 03/10/2021)
03/10/2021		MINUTE ORDER: The future hearing currently scheduled for 3/10/2021 is hereby VACATED, as the government has formally charged MICHAEL JOSEPH FOY and there are no additional matters necessitating action by a magistrate judge. If a hearing has not been scheduled before the assigned district judge, the parties are respectfully directed to contact the chambers of the assigned district judge to schedule a hearing. Signed by Magistrate Judge Zia M. Faruqui on 3/10/2021. (ztl) (Entered: 03/10/2021)
03/10/2021		MINUTE ORDER: In light of the fact that Magistrate Case for defendant MICHAEL JOSEPH FOY has closed and merged into Criminal Number 21-108, and an indictment has been filed, there are no additional matters necessitating action by a magistrate judge. If a hearing has not been scheduled before the assigned district judge, the parties are respectfully directed to contact the chambers of the assigned district judge to schedule a hearing. Signed by Magistrate Judge Zia M. Faruqui on 3/10/21. (ztl) (Entered: 03/10/2021)
03/11/2021		Set/Reset Hearings as to MICHAEL JOSEPH FOY: Arraignment/Bond Hearing set for 3/15/2021 01:00 PM in Telephonic/VTC before Judge Tanya S. Chutkan. (tb) (Entered: 03/11/2021)
03/12/2021	<u>11</u>	Memorandum in Opposition by USA as to MICHAEL JOSEPH FOY re <u>10</u> MOTION for Bond (Cole, Emory) (Entered: 03/12/2021)
03/13/2021	<u>12</u>	REPLY TO OPPOSITION to Motion by MICHAEL JOSEPH FOY re <u>10</u> MOTION for Bond (Ohm, Eugene) (Entered: 03/13/2021)
03/15/2021		Minute Entry: Arraignment/Bond Motion Hearing as to MICHAEL JOSEPH FOY (1) held on 3/15/2021 before Judge Tanya S. Chutkan on Counts 1,2,3,4,5,6,7 and 8: Plea of NOT GUILTY entered by MICHAEL JOSEPH FOY (1) as to counts 1,2,3,4,5,6,7 and 8. Motion <u>10</u> for Bond filed by MICHAEL JOSEPH FOY; heard and DENIED. Status Conference set for 4/9/2021 at 12:30 PM in Telephonic/VTC before Judge Tanya S. Chutkan. Oral motion by government to toll speedy trial; heard and order forthcoming. Defendant's exhibits 1-5 admitted and Government's exhibits 1-5

		admitted. Defendant remains incarcerated. Court Reporter: Bryan Wayne; Defense Attorney: Eugene Ohm; US Attorney: Emory Cole; Pretrial Officer: John Copes. (tb) (Entered: 03/15/2021)
03/17/2021		MINUTE ORDER: On 3/10/2021 the Court was advised that MICHAEL JOSEPH FOY had been transported to the District of Columbia and remains in custody. As MICHAEL JOSEPH FOY has been formally charged, the Court notes that there are no matters necessitating action by a magistrate judge at this time. The parties are directed to contact the chambers of the assigned district judge to schedule a hearing or address any other matters. Signed by Magistrate Judge Zia M. Faruqui on 3/17/2021. (ztl) (Entered: 03/17/2021)
03/31/2021		MINUTE ORDER as to MICHAEL JOSEPH FOY: Having considered the Government's oral motion to exclude time under the Speedy Trial Act and the Defendant's oral opposition to such an exclusion, and in light of the complexity of the case, the extensive and ongoing discovery process, ongoing delays in trial scheduling as a result of the novel coronavirus pandemic, and the fact that this is the first request, the court finds that the ends of justice served by the exclusion of the time between the date of Mr. Foy's Arraignment, on March 15, 2021, and the next status conference in this case, on April 9, 2021, outweigh the interests of the public and the Defendant in a speedy trial. It is therefore ORDERED that the time period from March 15, 2021, until April 9, 2021, will be excluded from the calculation of time in this case under the Speedy Trial Act, 18 U.S.C. §§ 3161 et seq. The court cautions the parties that further requests to exclude time under the Act will be considered in light of the progress made in the case. SO ORDERED by Judge Tanya S. Chutkan on 03/31/2021. (tb) (Entered: 03/31/2021)
04/07/2021	<u>14</u>	Unopposed MOTION for Protective Order by USA as to MICHAEL JOSEPH FOY. (Attachments: # <u>1</u> Text of Proposed Order)(Cole, Emory) (Entered: 04/07/2021)
04/07/2021	<u>15</u>	NOTICE OF FILING DISCOVERY LETTER by USA as to MICHAEL JOSEPH FOY (Attachments: # <u>1</u> Notice to Counsel/Party)(Cole, Emory) (Entered: 04/07/2021)
04/08/2021	<u>16</u>	PROTECTIVE ORDER setting forth procedures for handling confidential material; allowing designated material to be filed under seal as to MICHAEL JOSEPH FOY. Signed by Judge Tanya S. Chutkan on 04/08/2021. (tb) (Entered: 04/09/2021)
04/09/2021		Minute Entry: Status Conference as to MICHAEL JOSEPH FOY held on 4/9/2021 before Judge Tanya S. Chutkan: The government will endeavor to deliver discovery to defense counsel within 7–10 days. Status Conference set for 4/30/2021 at 12:30 PM in Telephonic/VTC before Judge Tanya S. Chutkan. The Court finds in the interest (XT) that the time between 04/09/2021 and 04/30/2021 shall be excluded from the speedy trial calculation. Defendant remains detained. Court Reporter: Bryan Wayne; Defense Attorney: Eugene Ohm; US Attorney: Emory Cole; Pretrial Officer: John Copes. (tb) (Entered: 04/11/2021)
04/20/2021	<u>17</u>	NOTICE OF FILING DISCOVERY LETTER by USA as to MICHAEL JOSEPH FOY (Attachments: # <u>1</u> Notice to Counsel/Party)(Cole, Emory) (Entered: 04/20/2021)
04/26/2021	<u>18</u>	NOTICE OF ATTORNEY APPEARANCE: Elizabeth Ann Mullin appearing for MICHAEL JOSEPH FOY (Mullin, Elizabeth) (Entered: 04/26/2021)
04/27/2021	<u>19</u>	NOTICE of Filing – Request for Bill of Particulars by MICHAEL JOSEPH FOY (Ohm, Eugene) (Entered: 04/27/2021)

04/28/2021	<u>20</u>	NOTICE <i>OF FILING</i> by USA as to MICHAEL JOSEPH FOY (Attachments: # <u>1</u> Notice to Counsel/Party)(Cole, Emory) (Entered: 04/28/2021)
04/29/2021	<u>21</u>	ENTERED IN ERROR.....MOTION to Revoke <i>Detention Order</i> by MICHAEL JOSEPH FOY. (Attachments: # <u>1</u> Text of Proposed Order)(Ohm, Eugene) Modified on 4/30/2021 (zhsj). (Entered: 04/29/2021)
04/29/2021	<u>22</u>	MOTION for Release from Custody by MICHAEL JOSEPH FOY. (Attachments: # <u>1</u> Text of Proposed Order)(Ohm, Eugene) (Entered: 04/29/2021)
04/29/2021	<u>23</u>	MOTION to Continue <i>MOTION TO CONTINUE AND TO EXCLUDE TIME UNDER THE SPEEDY TRIAL ACT</i> by USA as to MICHAEL JOSEPH FOY. (Attachments: # <u>1</u> Text of Proposed Order)(Cole, Emory) (Entered: 04/29/2021)
04/29/2021		NOTICE OF CORRECTED DOCKET ENTRY: as to MICHAEL JOSEPH FOY re <u>21</u> MOTION to Revoke <i>Detention Order</i> was entered in error and counsel refiled said pleading. Docket Entry <u>22</u> is the correct entry and document. (zhsj) (Entered: 04/30/2021)
04/29/2021	24	MOTION to Exclude Time Under the Speedy Trial Act by USA as to MICHAEL JOSEPH FOY. (See Docket Entry <u>23</u> to View Document). (zhsj) (Entered: 05/03/2021)
04/30/2021		Minute Entry: Status Conference as to MICHAEL JOSEPH FOY held on 4/30/2021 before Judge Tanya S. Chutkan: Denying government's <u>23</u> for Continuance. Government's response to <u>22</u> due by 5/14/2021. Defendant's reply due by 5/21/2021. Status Conference set for 6/2/2021 at 11:15 AM in Telephonic/VTC before Judge Tanya S. Chutkan. The Court finds in the interest of justice (XT) that the time between 04/30/2021 and 06/02/2021 shall be excluded from the speedy trial calculation. Defendant remains detained. Court Reporter: Bryan Wayne; Defense Attorney: Eugene Ohm and Elizabeth Mullin; US Attorney: Emory Cole. (tb) (Entered: 05/02/2021)
05/03/2021	<u>25</u>	TRANSCRIPT OF ARRAIGNMENT/BOND HEARING in case as to MICHAEL JOSEPH FOY before Judge Tanya S. Chutkan held on March 15, 2021; Page Numbers: 1–47. Date of Issuance: 5/3/2021. Court Reporter: Bryan A. Wayne. Transcripts may be ordered by submitting the Transcript Order Form at www.dcd.uscourts.gov . For the first 90 days after this filing date, the transcript may be viewed at the courthouse at a public terminal or purchased from the court reporter referenced above. After 90 days, the transcript may be accessed via PACER. Other transcript formats, (multi–page, condensed, CD or ASCII) may be purchased from the court reporter. NOTICE RE REDACTION OF TRANSCRIPTS: The parties have twenty–one days to file with the court and the court reporter any request to redact personal identifiers from this transcript. If no such requests are filed, the transcript will be made available to the public via PACER without redaction after 90 days. The policy, which includes the five personal identifiers specifically covered, is located on our website at www.dcd.uscourts.gov . Redaction Request due 5/24/2021. Redacted Transcript Deadline set for 6/3/2021. Release of Transcript Restriction set for 8/1/2021.(Wayne, Bryan) (Entered: 05/03/2021)
05/07/2021	<u>26</u>	NOTICE <i>OF FILING LETTER PROVIDED TO DEFENSE COUNSEL</i> by USA as to MICHAEL JOSEPH FOY (Attachments: # <u>1</u> Notice to Counsel/Party)(Cole, Emory) (Entered: 05/07/2021)
05/07/2021	<u>27</u>	

		NOTICE <i>OF FILING</i> by USA as to MICHAEL JOSEPH FOY (Attachments: # <u>1</u> Notice to Counsel/Party)(Cole, Emory) (Entered: 05/07/2021)
05/10/2021	<u>28</u>	NOTICE <i>OF FILING DISCOVERY LETTER</i> by USA as to MICHAEL JOSEPH FOY (Attachments: # <u>1</u> Notice to Counsel/Party)(Cole, Emory) (Entered: 05/10/2021)
05/13/2021	<u>29</u>	MOTION for Bill of Particulars by MICHAEL JOSEPH FOY. (Attachments: # <u>1</u> Text of Proposed Order)(Ohm, Eugene) (Entered: 05/13/2021)
05/14/2021	<u>30</u>	Memorandum in Opposition by USA as to MICHAEL JOSEPH FOY re <u>22</u> MOTION for Release from Custody (Cole, Emory) (Entered: 05/14/2021)
05/21/2021	<u>31</u>	REPLY TO OPPOSITION to Motion by MICHAEL JOSEPH FOY re <u>22</u> MOTION for Release from Custody (Ohm, Eugene) (Entered: 05/21/2021)
05/26/2021	<u>32</u>	Unopposed MOTION for Extension of Time to <i>File Opposition</i> by USA as to MICHAEL JOSEPH FOY. (Attachments: # <u>1</u> Text of Proposed Order)(Cole, Emory) (Entered: 05/26/2021)
06/01/2021	<u>33</u>	ORDER: Granting <u>32</u> Motion for Extension of Time as to MICHAEL JOSEPH FOY (1). Signed by Judge Tanya S. Chutkan on 06/01/2021. (tb) (Entered: 06/01/2021)
06/01/2021		Set/Reset Deadlines as to MICHAEL JOSEPH FOY: Response due by 6/4/2021. (tb) (Entered: 06/01/2021)
06/02/2021		Minute Entry for proceedings held before Judge Tanya S. Chutkan: Video (VTC) Status Conference as to MICHAEL JOSEPH FOY held on 6/2/2021. The Court Defers Ruling on Defendant's <u>22</u> Motion for Release from Custody and will issue a written decision on the Motion. The Court further allows the Government to file any Reply to the Defendant's Reply by 6/9/2021. Another Video (VTC) Status Conference set for 6/30/2021 at 11:30 AM before Judge Tanya S. Chutkan. The Court makes a finding that it is in the Interests of Justice that the time between 6/2/2021 and 6/30/2021 shall be excluded from the Speedy Trial Act Calculation (START XT). Bond Status of Defendant: Defendant appeared by Video, but Remains Committed; Court Reporter: Bryan Wayne; Defense Attorneys: Eugene Ohm and Elizabeth Mullin; US Attorney: Emory Cole; Pretrial Officer: John Copes. (jth) (Entered: 06/03/2021)
06/04/2021	<u>34</u>	Memorandum in Opposition by USA as to MICHAEL JOSEPH FOY re <u>29</u> MOTION for Bill of Particulars (Cole, Emory) (Entered: 06/04/2021)
06/09/2021	<u>35</u>	RESPONSE by USA to <u>31</u> Reply Motion as to MICHAEL JOSEPH FOY (Cole, Emory) Modified Text on 6/10/2021 (zhsj). (Entered: 06/09/2021)
06/17/2021		MINUTE ORDER as to MICHAEL JOSEPH FOY : The court has received an application from several media organizations seeking access to certain video recordings submitted in this manner. See Motion, Case No. 21–mc–89. In accordance with the Chief Judges Standing Order No. 21–28, the parties are hereby ORDERED to provide, by Friday, June 25, 2021, their positions regarding the release of the video exhibits referenced by the Defendant in <u>10</u> Emergency Bond Review Motion and by the Government in <u>11</u> Opposition to Defendants Emergency Bond Review Motion. Any objections shall be supported by legal authority. Signed by Judge Tanya S. Chutkan on 06/17/21. (mac) (Entered: 06/17/2021)
06/22/2021	<u>36</u>	LEAVE TO FILE DENIED– Petition for Writ of Habeas Corpus as to MICHAEL JOSEPH FOY This document is unavailable as the Court denied its filing. "Leave to

		file is denied. The Court hereby denies Mark Marvin permission to file his proffered "Petition for Writ of Habeas Corpus", as he is not a party to this litigation, nor has he established a right to intervene". Signed by Judge Tanya S. Chutkan on 06/22/2021. (zstd) (Entered: 06/22/2021)
06/25/2021	<u>37</u>	RESPONSE by MICHAEL JOSEPH FOY to Court's Minute Order Regarding Press Applications (Mullin, Elizabeth) (Entered: 06/25/2021)
06/25/2021	<u>38</u>	RESPONSE by USA as to MICHAEL JOSEPH FOY (Cole, Emory) (Entered: 06/25/2021)
06/29/2021	<u>39</u>	NOTICE OF FILING DISCOVERY LETTER by USA as to MICHAEL JOSEPH FOY (Attachments: # <u>1</u> Notice to Counsel/Party)(Cole, Emory) (Entered: 06/29/2021)
06/29/2021		Set/Reset Hearings as to MICHAEL JOSEPH FOY:Status Conference reset for 6/30/2021 at (TIME CHANGE) 11:15 AM in Jury Room before Judge Tanya S. Chutkan. (tb) (Entered: 06/29/2021)
06/30/2021	<u>40</u>	MOTION for Reconsideration of Government's Request for Stay of Release Order by MICHAEL JOSEPH FOY. (Attachments: # <u>1</u> Text of Proposed Order)(Mullin, Elizabeth) (Entered: 06/30/2021)
06/30/2021		Minute Entry: Status Conference as to MICHAEL JOSEPH FOY held on 6/30/2021 before Judge Tanya S. Chutkan: The Court GRANTS defendant's <u>22</u> motion for release; An order setting release conditions and written opinion will each be issued shortly. Governments oral motion to stay ruling on release for 72 hours; heard and GRANTED; Order releasing defendant STAYED for 72 hours from today, June 30, 2021, at 12:00 p.m. The Court DENIES defendant's <u>29</u> motion for bill of particulars. Status Conference set for 8/2/2021 at 12:00 PM in Telephonic/VTC before Judge Tanya S. Chutkan. The Court finds in the interest of justice (XT) that the time between 06/30/2021 and 08/02/2021 shall be excluded from the speedy trial calculation. Defendant remains incarcerated. Court Reporter: Bryan Wayne; Defense Attorney: Eugene Ohm; US Attorney: Emory Cole; Pretrial Officer: John Copes. (tb) (Entered: 06/30/2021)
06/30/2021	<u>41</u>	TRANSCRIPT OF 6/30/21 STATUS HEARING in case as to MICHAEL JOSEPH FOY before Judge Tanya S. Chutkan held on June 30, 2021; Page Numbers: 1–37. Date of Issuance: 6/30/2021. Court Reporter: Bryan A. Wayne. Transcripts may be ordered by submitting the Transcript Order Form at www.dcd.uscourts.gov. For the first 90 days after this filing date, the transcript may be viewed at the courthouse at a public terminal or purchased from the court reporter referenced above. After 90 days, the transcript may be accessed via PACER. Other transcript formats, (multi–page, condensed, CD or ASCII) may be purchased from the court reporter. NOTICE RE REDACTION OF TRANSCRIPTS: The parties have twenty–one days to file with the court and the court reporter any request to redact personal identifiers from this transcript. If no such requests are filed, the transcript will be made available to the public via PACER without redaction after 90 days. The policy, which includes the five personal identifiers specifically covered, is located on our website at www.dcd.uscourts.gov. Redaction Request due 7/21/2021. Redacted Transcript Deadline set for 7/31/2021. Release of Transcript Restriction set for 9/28/2021.(Wayne, Bryan) (Entered: 06/30/2021)
07/02/2021	<u>42</u>	NOTICE TO THE COURT by USA as to MICHAEL JOSEPH FOY (Cole, Emory) (Entered: 07/02/2021)

07/02/2021	<u>43</u>	Emergency MOTION to Revoke <i>Order Staying Release Order</i> by MICHAEL JOSEPH FOY. (Attachments: # <u>1</u> Text of Proposed Order)(Ohm, Eugene) (Entered: 07/02/2021)
07/02/2021	<u>44</u>	MEMORANDUM OPINION as to MICHAEL JOSEPH FOY. Signed by Judge Tanya S. Chutkan on 07/02/2021. (tb) (Entered: 07/02/2021)
07/02/2021	<u>45</u>	ORDER: Granting <u>22</u> Motion for Release from Custody as to MICHAEL JOSEPH FOY (1). Signed by Judge Tanya S. Chutkan on 07/02/2021. (tb) (Entered: 07/02/2021)
07/02/2021	<u>46</u>	ORDER: Granting <u>43</u> Motion to Revoke as to MICHAEL JOSEPH FOY (1). Signed by Judge Tanya S. Chutkan on 07/02/2021. (tb) (Entered: 07/02/2021)
07/02/2021	<u>47</u>	ORDER Setting Conditions of Release as to MICHAEL JOSEPH FOY (1) Release. Signed by Judge Tanya S. Chutkan on 07/02/2021. (tb) (Entered: 07/02/2021)
07/13/2021		MINUTE ORDER: In view of the court's <u>46</u> Order granting Defendants <u>43</u> Motion to Revoke Order Staying Release Order, Defendants <u>40</u> Motion for Reconsideration of Governments Request for Stay of Release Order, is hereby DENIED as moot. SO ORDERED by Judge Tanya S. Chutkan on 07/12/2021. (tb) (Entered: 07/13/2021)
07/30/2021	<u>48</u>	Joint MOTION to Continue <i>STATUS HEARING</i> by USA as to MICHAEL JOSEPH FOY. (Attachments: # <u>1</u> Text of Proposed Order)(Cole, Emory) (Entered: 07/30/2021)
07/30/2021		MINUTE ORDER: Upon consideration of the <u>48</u> Joint Motion to Continue the Status Hearing, it is hereby ORDERED that the Joint Motion to Continue the Status is GRANTED. It is FURTHER ORDERED that the parties shall submit to chambers three mutually agreeable dates and times for the rescheduled Status Hearing in approximately 60 days. These proposed dates are to be submitted no later than August 6, 2021. In consideration of the Parties joint motion and the record in this case, the court hereby finds that it is in the interests of justice that the Speedy Trial Clock, pursuant to the Speedy Trial Act, 18 U.S.C. § 3161, be tolled until the next hearing in this matter. SO ORDERED by Judge Tanya S. Chutkan on 07/30/2021. (tb) (Entered: 07/30/2021)
08/04/2021		Set/Reset Deadlines as to MICHAEL JOSEPH FOY: Proposed dates due by 8/6/2021. (tb) (Entered: 08/04/2021)
08/06/2021		Set/Reset Hearings as to MICHAEL JOSEPH FOY: Status Conference set for 10/13/2021 at 01:00 PM in Telephonic/VTC before Judge Tanya S. Chutkan. (tb) (Entered: 08/06/2021)
08/17/2021	<u>49</u>	TRANSCRIPT OF 6/2/21 STATUS HEARING in case as to MICHAEL JOSEPH FOY before Judge Tanya S. Chutkan held on June 2, 2021; Page Numbers: 1–46. Date of Issuance: 8/17/2021. Court Reporter: Bryan A. Wayne. Transcripts may be ordered by submitting the Transcript Order Form at www.dcd.uscourts.gov . For the first 90 days after this filing date, the transcript may be viewed at the courthouse at a public terminal or purchased from the court reporter referenced above. After 90 days, the transcript may be accessed via PACER. Other transcript formats, (multi–page, condensed, CD or ASCII) may be purchased from the court reporter. NOTICE RE REDACTION OF TRANSCRIPTS: The parties have twenty–one days to file with the court and the court reporter any request to redact personal identifiers from this transcript. If no such requests are filed, the transcript will be made available to the public via PACER without redaction after 90 days. The policy, which includes the

		five personal identifiers specifically covered, is located on our website at www.dcd.uscourts.gov. Redaction Request due 9/7/2021. Redacted Transcript Deadline set for 9/17/2021. Release of Transcript Restriction set for 11/15/2021.(Wayne, Bryan) (Entered: 08/17/2021)
08/20/2021	<u>50</u>	NOTICE OF FILING DISCOVERY LETTER by USA as to MICHAEL JOSEPH FOY (Attachments: # <u>1</u> Notice to Counsel/Party)(Cole, Emory) (Entered: 08/20/2021)
09/28/2021	<u>51</u>	NOTICE OF FILING DISCOVERY LETTER by USA as to MICHAEL JOSEPH FOY (Attachments: # <u>1</u> Notice to Counsel/Party)(Cole, Emory) (Entered: 09/28/2021)
10/06/2021	<u>52</u>	MOTION to Modify Conditions of Release by MICHAEL JOSEPH FOY. (Attachments: # <u>1</u> Text of Proposed Order)(Mullin, Elizabeth) (Entered: 10/06/2021)
10/10/2021	<u>53</u>	Memorandum in Opposition by USA as to MICHAEL JOSEPH FOY re <u>52</u> MOTION to Modify Conditions of Release (Cole, Emory) (Entered: 10/10/2021)
10/12/2021		Set/Reset Hearings as to MICHAEL JOSEPH FOY: Status Conference reset for 10/22/2021 at 01:30 PM in Telephonic/VTC before Judge Tanya S. Chutkan. (tb) (Entered: 10/12/2021)
10/22/2021		Minute Entry for Status Conference as to MICHAEL JOSEPH FOY held on 10/22/2021 before Judge Tanya S. Chutkan. Speedy Trial Excludable (XT) started 10/22/2021 through 1/5/2022 in the interest of justice as to MICHAEL JOSEPH FOY. Court modifies defendant's conditions of release. Status Conference set for 1/5/2022 at 10:00 AM via video before Judge Tanya S. Chutkan. Bond Status of Defendant: Personal Recognizance; Court Reporter: Bryan Wayne; Defense Attorney: Eugene Ohm & Elizabeth Mullin; US Attorney: Emory Cole; (zjch,) (Entered: 10/22/2021)
10/22/2021		MINUTE ORDER: GRANTING <u>52</u> Motion to Modify Conditions of Release. Defendants Conditions of Release are altered from Home Incarceration to Home Detention. Defendant may leave the home only to attend (1) religious services from 10:30 AM to 1:00 PM Eastern Time on Sundays and (2) pre-scheduled job interviews, with appropriate notice to Pre-Trial Services. If Defendant obtains a job, the conditions of his release may be further altered upon his Motion and verification by Pre-Trial Services. Signed by Judge Tanya S. Chutkan on 10/22/2021. (zjch,) (Entered: 10/23/2021)
11/10/2021	<u>55</u>	SUPERSEDING INDICTMENT as to MICHAEL JOSEPH FOY (1) count(s) 1s, 2s, 3s, 4s, 5s, 6s, 7s, 8s. (zstd) (Entered: 11/10/2021)
12/05/2021	<u>57</u>	SEALED PURSUANT TO ORAL MOTION GRANTED BY THE COURT ON 1/5/2022..... MOTION to Modify Conditions of Release by MICHAEL JOSEPH FOY. (Attachments: # <u>1</u> Text of Proposed Order)(Ohm, Eugene) Modified on 1/6/2022 (jth). (Entered: 12/05/2021)
12/06/2021		MINUTE ORDER: Granting Defendants <u>57</u> Motion to Modify Conditions of Pre-Trial Release. Defendants home detention is modified to allow Mr. Foy to leave home detention solely for the purposes of travelling directly to and from his new job, as described in 4 of Defendants Motion. Any changes to Defendants work status, location, or hours must be promptly submitted for approval by this court. SO ORDERED by Judge Tanya S. Chutkan on 12/06/2021. (tb) (Entered: 12/06/2021)
12/10/2021	<u>58</u>	ENTERED IN ERROR..... MOTION to Modify Conditions of Release (REDACTED) by MICHAEL JOSEPH FOY. (Attachments: # <u>1</u> Text of Proposed Order)(Ohm, Eugene) Modified on 12/14/2021 (bb). (Entered: 12/10/2021)

01/05/2022		Minute Entry: Arraignment and Status Conference held on 1/5/2022 before Judge Tanya S. Chutkan: Plea of Not Guilty entered by MICHAEL JOSEPH FOY as to Counts: 1s,2s,3s,4s,5s,6s,7s,8s. The parties discussed discovery. Status Conference set for 2/7/2022 at 10:00 AM (EST) in Telephonic/VTC before Judge Tanya S. Chutkan. The Court finds in the interest of justice that the time between 1/5/2022 and 2/7/2022 shall be excluded from the speedy trial calculation. Oral Motion by Defendant to Seal his <u>57</u> Motion to Modify Conditions of Release was HEARD and GRANTED. The Clerk is directed to seal the <u>57</u> Motion. Defendant is directed to file a Redacted Version of the Motion on the Public Docket. Defendant remains on release. Court Reporter: Bryan Wayne; Defense Attorney: Eugene Ohm; US Attorney: Emory Cole. (jth) (Entered: 01/06/2022)
02/04/2022	<u>61</u>	NOTICE of Filing by MICHAEL JOSEPH FOY (Ohm, Eugene) (Entered: 02/04/2022)
02/07/2022		Minute Entry: Status Conference as to MICHAEL JOSEPH FOY held on 2/7/2022 before Judge Tanya S. Chutkan: Parties discussed discovery and posture of case. Government's response due by 2/14/2022. Status Conference set for 2/23/2022 at 02:00 PM in Telephonic/VTC before Judge Tanya S. Chutkan. Jury Trial set for 9/19/2022 at 09:30 AM in Courtroom 9– In Person before Judge Tanya S. Chutkan. Voir Dire set for 9/17/2022 at 09:30 AM in Ceremonial Courtroom before Judge Tanya S. Chutkan. The Court finds in the interest of justice (XT) that the time between 02/07/2022 and 02/23/2022 shall be excluded from the speedy trial calculation. Defendant remains on release. Court Reporter: Bryan Wayne; Defense Attorney: Eugene Ohm and Elizabeth Mullin; US Attorney: Emory Cole. (tb) Modified on 3/10/2022 (ztb). (Entered: 02/08/2022)
02/07/2022		Set/Reset Hearings as to MICHAEL JOSEPH FOY: (DATE CORRECTION) Jury Trial set for 9/19/2022 at 09:30 AM in Courtroom 9– In Person before Judge Tanya S. Chutkan. Voir Dire set for 9/19/2022 at 09:30 AM in Ceremonial Courtroom before Judge Tanya S. Chutkan. (tb) (Entered: 02/08/2022)
02/14/2022	<u>62</u>	Joint MOTION to Continue <i>STATUS HEARING</i> by USA as to MICHAEL JOSEPH FOY. (Attachments: # <u>1</u> Text of Proposed Order)(Cole, Emory) (Entered: 02/14/2022)
02/16/2022	<u>63</u>	NOTICE OF FILING by USA as to MICHAEL JOSEPH FOY (Cole, Emory) (Entered: 02/16/2022)
02/17/2022		MINUTE ORDER: The parties <u>62</u> Joint Motion to Continue the Status Hearing is GRANTED and the status conference set for 2/23 is hereby VACATED. The parties shall contact the courtroom deputy to schedule a time for a new status conference on or around 3/23. Unless either party moves to exclude the time between 2/23 and the date that the parties schedule the new conference for from the Speedy Trial clock, that time SHALL NOT be excluded. Additionally, counsel for the Government is directed to file the written responses to <u>61</u> Defense Counsels letter as contemplated by this courts February 7 minute entry on or before 2/18. SO ORDERED by Judge Tanya S. Chutkan on 02/16/2022. (tb) (Entered: 02/17/2022)
02/19/2022	<u>64</u>	TRANSCRIPT OF 2/7/22 STATUS HEARING in case as to MICHAEL JOSEPH FOY, before Judge Tanya S. Chutkan, held on February 7, 2022. Page Numbers: 1–26. Date of Issuance: 2/19/2022. Court Reporter: Bryan A. Wayne (202) 354–3186. Transcripts may be ordered by submitting the <u>Transcript Order Form</u>

		<p>For the first 90 days after this filing date, the transcript may be viewed at the courthouse at a public terminal or purchased from the court reporter or referenced above. After 90 days, the transcript may be accessed via PACER. Other transcript formats, (multi–page, condensed, CD or ASCII) may be purchased from the court reporter.</p> <p>NOTICE RE REDACTION OF TRANSCRIPTS: The parties have twenty–one days to file with the court and the court reporter any request to redact personal identifiers from this transcript. If no such requests are filed, the transcript will be made available to the public via PACER without redaction after 90 days. The policy, which includes the five personal identifiers specifically covered, is located on our website at www.dcd.uscourts.gov.</p> <p>Redaction Request due 3/12/2022. Redacted Transcript Deadline set for 3/22/2022. Release of Transcript Restriction set for 5/20/2022.(Wayne, Bryan) (Entered: 02/19/2022)</p>
03/04/2022		Set/Reset Hearings as to MICHAEL JOSEPH FOY: Status Conference set for 3/9/2022 at 01:00 PM before Judge Tanya S. Chutkan. (tb) (Entered: 03/04/2022)
03/04/2022	<u>65</u>	NOTICE OF FILING DISCOVERY LETTER by USA as to MICHAEL JOSEPH FOY (Attachments: # <u>1</u> Notice to Counsel/Party)(Cole, Emory) (Entered: 03/04/2022)
03/09/2022		Minute Entry: Status Conference as to MICHAEL JOSEPH FOY held on 3/9/2022 before Judge Tanya S. Chutkan: Parties discussed scheduling. Joint Proposed Pretrial Schedule due by 6/30/2022. Pretrial Conference set for 8/22/2022 at 10:00 AM in Telephonic/VTC before Judge Tanya S. Chutkan. The Court finds in the interest of justice (XT) that the time between 03/09/2022 and 09/19/2022 shall be excluded from the speedy trial calculation. Defendant remains on release. Court Reporter: Elizabeth Saint–Loth; Defense Attorney: Eugene Ohm and Elizabeth Mullin; US Attorney: Emory Cole. (tb) (Entered: 03/10/2022)
06/17/2022	<u>67</u>	Unopposed MOTION to Vacate Trial Date and Schedule a Status Conference Hearing by MICHAEL JOSEPH FOY. (Attachments: # <u>1</u> Text of Proposed Order)(Mullin, Elizabeth) Modified Event and Text on 6/20/2022 (zhsj). (Entered: 06/17/2022)
06/17/2022	68	MOTION to Schedule a Status Conference Hearing by MICHAEL JOSEPH FOY. (See Docket Entry <u>67</u> to View Document). (zhsj) (Entered: 06/20/2022)
06/23/2022		MINUTE ORDER: Defendants <u>67</u> , 68 Motion to Vacate Trial Date and a Hearing is PARTIALLY GRANTED AND PARTIALLY DENIED. A status conference is hereby set for July 25, 2022 at 10 AM, via Zoom. The court will consider the possibility of vacating the currently scheduled trial in this case after hearing the parties updates and representations regarding plea negotiations. SO ORDERED by Judge Tanya S. Chutkan on 06/23/2022. (tb) (Entered: 06/23/2022)
06/23/2022		Set/Reset Hearings as to MICHAEL JOSEPH FOY:Status Conference reset for 7/25/2022 at 10:00 AM in Telephonic/VTC before Judge Tanya S. Chutkan. (tb) (Entered: 06/23/2022)
07/25/2022		Minute Entry: Status Conference as to MICHAEL JOSEPH FOY held on 7/25/2022 before Judge Tanya S. Chutkan: Parties discussed posture of case. Oral motion by defendant to continue trial date; heard and GRANTED. The Court VACATES the currently scheduled pretrial conference and trial. Jury Trial reset for 1/30/2023 at 09:30 AM in Courtroom 9– In Person before Judge Tanya S. Chutkan. Pretrial

		Conference reset for 1/20/2023 at 12:30 PM in Courtroom 9– In Person before Judge Tanya S. Chutkan. Joint Proposed Pretrial Schedule due by 9/19/2022. The Court finds in the interest of justice (XT) that the time between 07/25/2022 and 01/20/2023 shall be excluded from the speedy trial calculation. Defendant remains on release. Court Reporter: Bryan Wayne; Defense Attorney: Eugene Ohm and Elizabeth Mullin; US Attorney: Emory Cole. (tb) (Entered: 07/27/2022)
09/20/2022	<u>70</u>	Joint STATUS REPORT by MICHAEL JOSEPH FOY (Ohm, Eugene) (Entered: 09/20/2022)
09/23/2022		MINUTE ORDER: Upon consideration of the parties <u>70</u> Joint Status Report, the court hereby STAYS its order requiring that a Joint Proposed Pretrial Schedule be filed by 9/19/2022. The parties are ORDERED to file a status report advising the court whether they have reached a plea agreement by September 30, 2022 . SO ORDERED by Judge Tanya S. Chutkan on 09/21/2022. (tb) (Entered: 09/23/2022)
09/28/2022	<u>71</u>	MOTION to Dismiss Count <i>Two</i> by MICHAEL JOSEPH FOY. (Mullin, Elizabeth) (Entered: 09/28/2022)
09/29/2022		Set/Reset Deadlines as to MICHAEL JOSEPH FOY: Joint Status Report due by 9/30/2022. (tb) (Entered: 09/29/2022)
09/30/2022	<u>72</u>	Joint STATUS REPORT by MICHAEL JOSEPH FOY (Mullin, Elizabeth) (Entered: 09/30/2022)
09/30/2022		MINUTE ORDER: Pursuant to the Parties' <u>72</u> Joint Status Report, the court hereby VACATES the currently scheduled pretrial conference and trial. The court shall hold a hearing on Defendant's <u>71</u> Motion to Dismiss Count Two on January 20, 2023 at 12:30 PM via video teleconference. SO ORDERED by Judge Tanya S. Chutkan on 09/30/2022. (tb) (Entered: 09/30/2022)
10/07/2022		Set/Reset Hearings as to MICHAEL JOSEPH FOY: Motion Hearing set for 1/20/2023 at 12:30 PM in Telephonic/VTC before Judge Tanya S. Chutkan. (tb) (Entered: 10/07/2022)
10/07/2022	<u>73</u>	Memorandum in Opposition by USA as to MICHAEL JOSEPH FOY re <u>71</u> Motion to dismiss count(s) (Cole, Emory) (Entered: 10/07/2022)
01/10/2023	<u>74</u>	MOTION to Modify Conditions of Release by MICHAEL JOSEPH FOY. (Attachments: # <u>1</u> Text of Proposed Order)(Ohm, Eugene) (Entered: 01/10/2023)
01/17/2023		MINUTE ORDER as to MICHAEL JOSEPH FOY (1): Defendant's <u>74</u> Motion to Modify Conditions is hereby GRANTED. Mr. Foy is permitted daily visits to his local Planet Fitness from 4:30 AM to 6:00 AM.. SO ORDERED by Judge Tanya S. Chutkan on 01/17/23. (tb) (Entered: 01/17/2023)
01/20/2023		Minute Entry for Video Motion Hearing held on 1/20/2023 before Judge Tanya S. Chutkan as to MICHAEL JOSEPH FOY: For reasons stated on the record, Defendant's <u>71</u> Motion to Dismiss Count Two is DENIED. Stipulated Bench Trial set for 3/24/2023 at 2:00 PM in Courtroom 9 (In Person) before Judge Tanya S. Chutkan. Speedy Trial Excludable (XT) started 1/20/2023 until 3/24/2023, in the Interest of Justice. Bond Status of Defendant: Continued on Personal Recognizance Bond/Appeared by Video. US Attorney: Emory Cole. Defense Attorneys: Elizabeth Mullin and Eugene Ohm. Court Reporter: Lorraine Herman. (smc) (Entered: 01/20/2023)

03/14/2023		MINUTE ORDER as to MICHAEL JOSEPH FOY. By March 21, 2023, the parties shall submit: (1) the parties' Joint Proposed Procedures for Stipulated Trial, to include, inter alia, a written statement setting forth the terms, with potential penalties, of any plea offer made to defendant, pursuant to Federal Rule of Criminal Procedure 11, and the date such offer was made and lapsed, see <i>Missouri v. Frye</i> , 566 U.S. 134, 145 (2012) ("[D]efense counsel has the duty to communicate formal offers from the prosecution to accept a plea on terms and conditions that may be favorable to the accused."); (2) the government's proposed Statement of Facts for Stipulated Trial, to which defendant will have agreed, as well as the government's exhibit list with corresponding descriptions and purposes of any video evidence, the length of each video, and a timestamp of when defendant is seen in the video; and (3) defendant's Agreement and Waiver of Jury Rights. Signed by Judge Tanya S. Chutkan on 3/14/2023. (jth) (Entered: 03/14/2023)
03/18/2023	<u>76</u>	Joint MOTION to Continue <i>STIPULATED TRIAL</i> by USA as to MICHAEL JOSEPH FOY. (Attachments: # <u>1</u> Text of Proposed Order)(Cole, Emory) (Entered: 03/18/2023)
03/21/2023		MINUTE ORDER: The parties' <u>76</u> Joint Motion to Continue the Stipulated Trial Hearing is hereby GRANTED. The parties shall coordinate with the Courtroom Deputy to reschedule the Stipulated Trial in approximately 30 days. No later than seven days before the rescheduled Stipulated Trial, the parties shall submit the materials required by the court's 03/14/2023 Minute Order. Furthermore, upon consideration of the parties' joint request, the court finds in the interest of justice that the time between 03/24/2023 and the rescheduled Stipulated Trial shall be excluded from the speedy trial calculation. SO ORDERED by Judge Tanya S. Chutkan on 03/20/23. (tb) (Entered: 03/21/2023)
04/04/2023		Set/Reset Hearings as to MICHAEL JOSEPH FOY:Stipulated Trial set for 5/22/2023 at 11:00 AM in Courtroom 9– In Person before Judge Tanya S. Chutkan. (tb) (Entered: 04/04/2023)
05/05/2023	<u>77</u>	Consent MOTION to Modify Conditions of Release by MICHAEL JOSEPH FOY. (Mullin, Elizabeth) (Entered: 05/05/2023)
05/07/2023	<u>78</u>	Unopposed MOTION to Continue <i>STIPULATED TRIAL HEARING</i> by USA as to MICHAEL JOSEPH FOY. (Attachments: # <u>1</u> Text of Proposed Order)(Cole, Emory) (Entered: 05/07/2023)
05/11/2023		MINUTE ORDER as to MICHAEL JOSEPH FOY (1): Defendant's <u>77</u> Consent Motion to Modify Conditions of Release is hereby GRANTED. It is hereby ORDERED in that Mr. Foy's conditions of release are modified to no longer include home detention, but Mr. Foy shall continue on electronic monitoring and abide by a curfew set by his Probation Officer. SO ORDERED by Judge Tanya S. Chutkan on 05/08/23. (tb) (Entered: 05/11/2023)
05/11/2023		MINUTE ORDER as to MICHAEL JOSEPH FOY (1): The government's <u>78</u> Unopposed Motion to Continue is hereby GRANTED. The Stipulated Trial Hearing in this matter is hereby continued to June 22, 2023 at 10:00 A.M. in Courtroom 9. It is FURTHER ORDERED that in the interest of justice and at the parties' request under the Speedy Trial Act pursuant to 18 U.S.C. § 3161(h)(7)(A), the time from May 22, 2023, until June 22, 2023 shall be tolled. Given the age of this case, the court will view further requests for continuances with disfavor. SO ORDERED by Judge Tanya S. Chutkan on 05/08/23. (tb) (Entered: 05/11/2023)
05/11/2023		

		Set/Reset Hearings as to MICHAEL JOSEPH FOY: Stipulated Trial reset for 6/22/2023 at 10:00 AM in Courtroom 9– In Person before Judge Tanya S. Chutkan. (tb) (Entered: 05/11/2023)
06/20/2023	<u>80</u>	SECOND SUPERSEDING INFORMATION as to MICHAEL JOSEPH FOY (1) count(s) 1ss. (zhsj) (Entered: 06/22/2023)
06/22/2023		Minute Entry for proceedings held before Judge Tanya S. Chutkan: Stipulated Trial as to MICHAEL JOSEPH FOY held on 6/22/2023. Defendant Sworn. Defendant waived his right to Jury Trial. The Court finds the Defendant Guilty as to Count 1ss of the Superseding Information and Count 2s of the Superseding Indictment. Case Referred to Probation Office for Presentence Investigation. Sentencing Memorandum due one week before sentencing. Sentencing set for 11/6/2023 at 10:00 AM in Courtroom 9– In Person before Judge Tanya S. Chutkan. Bond Status of Defendant: Remain on Personal Recognizance; Court Reporter: Nancy Meyer; Defense Attorney: Elizabeth Mullin and Eugene Ohm; US Attorney: Emory Cole. (ztl) (Entered: 06/23/2023)
06/22/2023	<u>82</u>	EXHIBIT LIST by USA as to MICHAEL JOSEPH FOY. (ztl) (Entered: 06/23/2023)
06/22/2023	<u>83</u>	STATEMENT OF OFFENSE FOR STIPULATED TRIAL by USA as to MICHAEL JOSEPH FOY. (ztl) (Entered: 06/23/2023)
06/22/2023	<u>84</u>	AGREEMENT AND WAIVER OF JURY TRIAL RIGHTS by MICHAEL JOSEPH FOY. (ztl) (Entered: 06/23/2023)
09/21/2023	<u>85</u>	Consent MOTION to Continue <i>Sentencing Hearing</i> by MICHAEL JOSEPH FOY. (Attachments: # <u>1</u> Text of Proposed Order)(Mullin, Elizabeth) (Entered: 09/21/2023)
09/22/2023		MINUTE ORDER as to MICHAEL JOSEPH FOY: Upon consideration of the Defenses <u>85</u> consent Motion to Continue the Sentencing Hearing, it is hereby ORDERED that the consent motion is GRANTED and the sentencing hearing is continued to January 15, 2024 at 10:00 AM in Courtroom 9. SO ORDERED by Judge Tanya S. Chutkan on 9/22/23. (zed) (Entered: 09/25/2023)
10/20/2023		Set/Reset Hearings as to MICHAEL JOSEPH FOY: The Sentencing Hearing is rescheduled to January 22, 2024 at 10:30 AM in Courtroom 9– In Person before Judge Tanya S. Chutkan. (ztl) (Entered: 10/20/2023)
12/11/2023	<u>86</u>	Joint MOTION to Continue <i>Sentencing Hearing</i> by MICHAEL JOSEPH FOY. (Attachments: # <u>1</u> Text of Proposed Order)(Mullin, Elizabeth) (Entered: 12/11/2023)
12/12/2023		MINUTE ORDER as to MICHAEL JOSEPH FOY: Upon consideration of the Parties' <u>86</u> Joint Motion to Continue the Sentencing Hearing, it is hereby ORDERED that the joint motion is GRANTED and the sentencing hearing is continued to February 28, 2024 at 10:00 AM in Courtroom 9. Signed by Judge Tanya S. Chutkan on 12/12/2023. (ztl) (Entered: 12/12/2023)
12/27/2023	<u>87</u>	NOTICE OF ATTORNEY APPEARANCE Matthew M. Beckwith appearing for USA. (Beckwith, Matthew) (Entered: 12/27/2023)
01/03/2024	<u>88</u>	MOTION to Stay until U.S. Supreme Court resolves the question presented in Fischer by MICHAEL JOSEPH FOY. (Attachments: # <u>1</u> Text of Proposed Order)(Mullin, Elizabeth) (Entered: 01/03/2024)
01/05/2024		MINUTE ORDER as to MICHAEL JOSEPH FOY: Denying Defendant's <u>88</u> Motion to Stay Until U.S. Supreme Court Resolves the Question Presented in Fischer. The

		court finds that Mr. Foy's request to vacate his sentencing and stay the matter pending the Supreme Court's decision in Fischer v. United States, No. 23–5572, is unjustified. Mr. Foy was not only convicted of Obstruction of an Official Proceeding and Aiding and Abetting, in violation of 18 USC 1512(c)(2) and 2, but also a second felony offense: Assaulting, Resisting, or Impeding Certain Officers in violation of 18 USC 111(a)(1). Even if the Supreme Court's decision in Fischer were to favor Mr. Foy, he must still face judgment for assaulting an MPD officer on January 6, 2021. Thus, upon consideration of these factors, the court is not inclined to delay sentencing and Mr. Foy's motion is DENIED. Signed by Judge Tanya S. Chutkan on 1/5/23. (zgf) (Entered: 01/05/2024)
02/14/2024	<u>92</u>	SENTENCING MEMORANDUM by USA as to MICHAEL JOSEPH FOY (Beckwith, Matthew) (Entered: 02/14/2024)
02/15/2024	<u>93</u>	ENTERED IN ERROR.....Unopposed MOTION to Amend/Correct by USA as to MICHAEL JOSEPH FOY. (Beckwith, Matthew) Modified on 2/15/2024 (zhsj). (Entered: 02/15/2024)
02/15/2024		NOTICE OF ERROR as to MICHAEL JOSEPH FOY regarding <u>93</u> Unopposed MOTION to Amend/Correct. The following error(s) need correction: Incorrect document and event used. Please file your document as a motion to amend/correct and not a sentencing memorandum. (zhsj) (Entered: 02/15/2024)
02/15/2024	<u>94</u>	Unopposed MOTION to Amend/Correct <u>92</u> Sentencing Memorandum filed by USA by USA as to MICHAEL JOSEPH FOY. (Attachments: # <u>1</u> Memorandum in Support)(Beckwith, Matthew) (Entered: 02/15/2024)
02/15/2024		MINUTE ORDER: Granting <u>94</u> Motion to Amend/Correct as to MICHAEL JOSEPH FOY (1). Signed by Judge Tanya S. Chutkan on 2/16/2024. (zcll) (Entered: 02/16/2024)
02/20/2024	<u>95</u>	MOTION Seal Sentencing Materials by MICHAEL JOSEPH FOY. (Attachments: # <u>1</u> Text of Proposed Order)(Mullin, Elizabeth) (Entered: 02/20/2024)
02/21/2024		MINUTE ORDER as to MICHAEL JOSEPH FOY: Granting Defendant's <u>95</u> Motion to Seal Sentencing Materials. It is hereby ORDERED that Mr. Foy may file his Memorandum in Aid of Sentencing and Exhibits under seal. Signed by Judge Tanya S. Chutkan on 2/21/2024. (zcll) (Entered: 02/21/2024)
02/28/2024		Minute Entry for proceedings held before Judge Tanya S. Chutkan:Sentencing held on 2/28/2024 as to MICHAEL JOSEPH FOY. Defendant Is Sentenced To Concurrent Terms Of Forty (40) Months Incarceration as to Count(s) 1ss and 2s. The Defendant Is Further Sentenced To Serve Concurrent Twenty–Four (24) Months Terms Of Supervised Release as to Count 1ss and 2s. The Defendant Is Also Ordered To Pay A Special Assessment Of \$200.00. Over Objection By The Government, The Court Will Allow The Defendant To Self–Surrender. Bond Status of Defendant: PERSONAL RECOGNIZANCE; Court Reporter: BRYAN WAYNE; Defense Attorney: ELIZABETH MULLIN/EUGENE OHM; US Attorney: MATTHEW BECKWITH/EMORY COLE; Prob Officer: JESSICA REICHLER; (mac) (Entered: 02/28/2024)
02/29/2024	<u>101</u>	JUDGMENT as to MICHAEL JOSEPH FOY. Statement of Reasons Not Included. Signed by Judge Tanya S. Chutkan on 2/29/2024. (zhsj) (Entered: 03/01/2024)
02/29/2024	<u>102</u>	

		STATEMENT OF REASONS as to MICHAEL JOSEPH FOY re <u>101</u> Judgment Access to the PDF Document is restricted per Judicial Conference Policy. Access is limited to Counsel of Record and the Court. Signed by Judge Tanya S. Chutkan on 2/29/2024. (zhsj) (Entered: 03/01/2024)
03/04/2024	<u>103</u>	MOTION to Reduce Sentence <i>in light of D.C. Circuit's March 1, 2024 opinion United States v. Brock</i> by MICHAEL JOSEPH FOY. (Attachments: # <u>1</u> Text of Proposed Order)(Mullin, Elizabeth) (Entered: 03/04/2024)
03/06/2024	<u>104</u>	<p>TRANSCRIPT OF SENTENCING HEARING in case as to MICHAEL JOSEPH FOY before Judge Tanya S. Chutkan held on February 28, 2024; Page Numbers: 1–56. Date of Issuance: 3/6/2024. Court Reporter: Bryan A. Wayne. Transcripts may be ordered by submitting the <u>Transcript Order Form</u></p> <p>For the first 90 days after this filing date, the transcript may be viewed at the courthouse at a public terminal or purchased from the court reporter referenced above. After 90 days, the transcript may be accessed via PACER. Other transcript formats, (multi–page, condensed, CD or ASCII) may be purchased from the court reporter.</p> <p>NOTICE RE REDACTION OF TRANSCRIPTS: The parties have twenty–one days to file with the court and the court reporter any request to redact personal identifiers from this transcript. If no such requests are filed, the transcript will be made available to the public via PACER without redaction after 90 days. The policy, which includes the five personal identifiers specifically covered, is located on our website at www.dcd.uscourts.gov.</p> <p>Redaction Request due 3/27/2024. Redacted Transcript Deadline set for 4/6/2024. Release of Transcript Restriction set for 6/4/2024.(Wayne, Bryan) (Entered: 03/06/2024)</p>
03/08/2024	<u>105</u>	RESPONSE by USA as to MICHAEL JOSEPH FOY re <u>103</u> MOTION to Reduce Sentence <i>in light of D.C. Circuit's March 1, 2024 opinion United States v. Brock</i> (Beckwith, Matthew) (Entered: 03/08/2024)
03/10/2024	<u>106</u>	REPLY TO OPPOSITION to Motion by MICHAEL JOSEPH FOY re <u>103</u> MOTION to Reduce Sentence <i>in light of D.C. Circuit's March 1, 2024 opinion United States v. Brock</i> (Mullin, Elizabeth) (Entered: 03/10/2024)
03/12/2024		MINUTE ORDER as to MICHAEL JOSEPH FOY: On February 28, 2024, Defendant was sentenced to 40–months incarceration after he was found guilty at his June 22, 2023 stipulated trial of Assaulting, Resisting, or Impeding Certain Officers in violation of 18 USC Section 111(a)(1) and Obstruction of an Official Proceeding and Aiding and Abetting in violation of 18 USC Sections 1512(c)(2) & 2. At sentencing, the court overruled Defense counsel's objections, and agreed with the Probation Office to apply the enhancements under USSG Sections 2J1.2(b)(1)(B) & (b)(2). Two days later, the D.C. Circuit issued <i>United States v. Brock</i> , which held that, under USSG Section 2J1.1(b)(2), "the phrase 'administration of justice' does not encompass Congress's role in the electoral certification process," and, therefore, the district court erred in applying this enhancement to Defendant's 1512(c)(2) conviction. No. 23–3045, 2024 WL 875795, at *815 (D.C. Cir. Mar. 1, 2024). In light of <i>Brock</i> , Defense counsel here has filed a <u>103</u> Motion to Reduce Sentence, requesting that the court correct the guidelines range, without the 2J1.2 enhancements, and resentence Mr. Foy. The Defense also asserts that under Rule 35(a) of the Federal Rules of

		Criminal Procedure, the court's reliance on an "incorrect guideline range" is "clear error," and the court must correct Mr. Foy's sentence within 14–days of his sentencing hearing which would be by March 13, 2024. Reply at 12. However, the court does not believe that the Rule 35(a) "clear error" standard is applicable to the present matter because Brock was not binding precedent when Mr. Foy was sentenced, and, therefore, the guidelines range, at that time, was not miscalculated. Thus, the court need not rule within the 14–day window presented in Rule 35(a). Despite this, the court intends to rule expeditiously on the pending motion and discussions with the Probation Office remain ongoing. SO ORDERED by Judge Tanya S. Chutkan on 3/12/2024. (lsj) (Entered: 03/12/2024)
03/13/2024	<u>107</u>	MOTION for Extension of Time to File <i>Notice of Appeal in light of Court's Minute Order indicating Court intends to rule on Mr. Foy's Motion to Reconsider Sentence</i> by MICHAEL JOSEPH FOY. (Attachments: # <u>1</u> Text of Proposed Order)(Mullin, Elizabeth) (Entered: 03/13/2024)
03/13/2024		MINUTE ORDER as to MICHAEL JOSEPH FOY: Granting Defendant's <u>107</u> Motion for Extension of Time for good cause. Defense counsel must file the Notice of Appeal no later than April 12, 2024. See Fed. R. App. P. 4(b)(4). Signed by Judge Tanya S. Chutkan on 3/13/2024. (lsj) (Entered: 03/13/2024)
04/08/2024		MINUTE ORDER as to MICHAEL JOSEPH FOY: Motions Hearing on Defendants <u>103</u> MOTION to Reduce Sentence scheduled for April 11, 2024 at 2 PM in–person in Courtroom 9. Signed by Judge Tanya S. Chutkan on 4/8/2024. (zed) (Entered: 04/08/2024)
04/08/2024	<u>108</u>	MOTION to Reduce Sentence <i>or in the alternative, grant release pending direct appeal.</i> by MICHAEL JOSEPH FOY. (Mullin, Elizabeth) (Entered: 04/08/2024)
04/09/2024	<u>109</u>	NOTICE of Waiver of In Person Presence at Hearing on this Motion by MICHAEL JOSEPH FOY re <u>108</u> MOTION to Reduce Sentence <i>or in the alternative, grant release pending direct appeal.</i> (Mullin, Elizabeth) (Entered: 04/09/2024)
04/10/2024	<u>110</u>	RESPONSE by USA as to MICHAEL JOSEPH FOY re <u>108</u> MOTION to Reduce Sentence <i>or in the alternative, grant release pending direct appeal.</i> (Beckwith, Matthew) (Entered: 04/10/2024)
04/10/2024	<u>112</u>	NOTICE OF ATTORNEY APPEARANCE Peter Francis Andrews appearing for USA. (Andrews, Peter) (Entered: 04/10/2024)
04/11/2024		Minute Entry for proceedings held before Judge Tanya S. Chutkan: Motion Hearing as to MICHAEL JOSEPH FOY (1) held on 4/11/2024 re <u>108</u> MOTION to Reduce Sentence <i>or in the alternative, grant release pending direct appeal.</i> filed by MICHAEL JOSEPH FOY. Oral arguments heard, motion taken under advisement. Written decision to be issued forthwith. Bond Status of Defendant: remains on Personal Recognizance Bond /appeared via Zoom; Court Reporter: Bryan Wayne; Defense Attorney: Elizabeth Mullin and Eugene Ohm; US Attorney: Matthew Beckwith and Peter Andrews; Prob Officer: Jessica Reichler (Zoom). (znbn) (Entered: 04/11/2024)
04/12/2024	<u>113</u>	NOTICE OF APPEAL – Final Judgment by MICHAEL JOSEPH FOY re <u>101</u> Judgment. Fee Status: No Fee Paid. Parties have been notified. (Mullin, Elizabeth) (Entered: 04/12/2024)

Notice of Appeal Criminal

CO-290
Rev. 3/88

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA

UNITED STATES OF AMERICA, :
 :
 v. : Cr. No. 21-108 (TSC)
 :
 MICHAELY FOY, :
 :
 Defendant. :

NOTICE OF APPEAL

Name and address of appellant: Michael Foy
FCI Ashland
Federal Correctional Institution
PO Box 6001
Ashland, KY 41105

Name and address of appellant's attorney: Tony Aham
Assistant Federal Public Defender
625 Indiana Avenue, NW, Suite 550
Washington, DC 20004

Offense: 18 U.S.C. §§ 111(a)(1) and 1512(c)(2), 2 – assault on law enforcement and obstruction of justice

Concise statement of judgment or order, giving date, and any sentence:

Judgment filed on February 29, 2024, sentencing defendant to:
40 months' imprisonment, 24 months' supervised release, special assessment of \$200.

Name and institution where now confined, if not on bail: FCI Ashland

I, the above named appellant, hereby appeal to the United States Court of Appeals for the District of Columbia Circuit from the above-stated judgment.

4/12/2024
DATE

Michael J. Foy
APPELLANT

CJA, NO FEE FPD
PAID USDC FEE No
PAID USCA FEE No

Tony Aham
ATTORNEY FOR APPELLANT

Does counsel wish to appear on appeal? X Yes ___ No
Has counsel ordered transcripts? ___ Yes X No
Is this appeal pursuant to the 1984 Sentencing Reform Act? X Yes ___ No